

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**IN RE: BARD PELVIC SUPPORT SYSTEMS
PRODUCTS LIABILITY LITIGATION**

**CIVIL ACTION
FILE NO.: 2:10-MD-2187**

THIS DOCUMENT RELATES TO:

BECKY SMITH and DONALD MACKIE

Case No. 2:15-cv-16402

Plaintiffs,

v.

C. R. BARD, INC.

Defendant.

**DEFENDANT C. R. BARD, INC.'S MOTION TO EXCLUDE OR LIMIT
CERTAIN OPINIONS AND TESTIMONY OF DANIEL S. ELLIOTT, M.D.**

REED SMITH LLP

355 South Grand Avenue, Suite 2900
Los Angeles, California 90071-1514
(213) 457-8000

GREENBERG TRAURIG, LLP

Terminus 200
3333 Piedmont Road NE, Suite 2500
Atlanta Georgia, 30305

COMES NOW Defendant C. R. Bard, Inc. (“Bard”), and, pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its progeny, respectfully moves the Court for an Order Excluding or Limiting Certain Opinions and Testimony of Dr. Daniel S. Elliott.

This Motion, as explained in more detail in the attached Memorandum of Law in Support, is based on the grounds that the Court should exclude opinions for which Daniel S. Elliott, M.D. does not have a reliable basis, that are not supported by sufficient facts or data, that amount to improper narrative testimony as to state of mind or conduct, and/or for which Daniel S. Elliott, M.D. does not have the necessary expertise. Daniel S. Elliott, M.D. should also not be permitted to offer opinions that were not disclosed in his Rule 26 Expert Report or that he disclaimed at his deposition.

This Motion is supported by the Memorandum of Law in Support, Exhibits 1 through 5 annexed hereto, and all other papers and pleadings on file in this action.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law in Support, Bard respectfully requests that this Court enter an Order limiting or excluding the opinions and/or testimony of this expert witness, and grant such other and further relief as the Court deems just and proper.

Dated: August 14, 2019

Respectfully submitted,

/s/ Eric J. Buhr

Eric J. Buhr

Michael K. Brown

REED SMITH LLP

355 South Grand Ave., Suite 2900

Los Angeles, CA 90071-1514

Tel. (213) 457-8000

Fax (213) 457-8080

Eric L. Alexander
REED SMITH LLP
1301 K Street, N.W.
Suite 1000
Washington, DC 20005
Tel. (202) 414-9200
Fax (202) 414-9299

Lori G. Cohen
GREENBERG TRAURIG, LLP
Terminus 200
3333 Piedmont Road NE, Suite 2500
Atlanta, Georgia 30305
CohenL@gtlaw.com
Attorneys for Defendant C. R. Bard, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2019, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Eric J. Buhr

Eric J. Buhr

REED SMITH LLP

355 South Grand Ave., Suite 2900

Los Angeles, CA 90071-1514

Tel. (213) 457-8000

Fax (213) 457-8080

ebuhr@reedsmith.com

Attorney for Defendant C. R. Bard, Inc.